

State of Arizona
House of Representatives
Forty-sixth Legislature
Second Regular Session
2004

CHAPTER 252
HOUSE BILL 2029

AN ACT

AMENDING SECTIONS 38-743, 38-744, 38-745, 38-747, 38-748 AND 38-762, ARIZONA
REVISED STATUTES; RELATING TO THE ARIZONA STATE RETIREMENT SYSTEM.

(TEXT OF BILL BEGINS ON NEXT PAGE)



1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 38-743, Arizona Revised Statutes, is amended to
3 read:

4 38-743. Public service credit

5 A. If an active member of ASRS or a member who is receiving benefits
6 pursuant to section 38-797.07 was previously employed by the United States
7 government, a state of the United States or a political subdivision of a
8 state of the United States, EXCLUDING ANY TIME WORKED FOR A PRISON WHILE THE
9 MEMBER WAS INCARCERATED, the member may receive credited service for this
10 prior employment if the member pays into ASRS the amount prescribed in
11 subsection B of this section.

12 B. A member who elects to receive credit for service with the United
13 States government, a state of the United States or a political subdivision
14 of a state of the United States shall pay to ASRS the AN amount equal to the
15 ~~product of the member's current annual compensation times the normal cost~~
16 ~~rate for ASRS for the fiscal year during which the purchase of credited~~
17 ~~service is being made times the years or partial years of credited service~~
18 ~~being purchased~~ PRESENT VALUE OF THE ADDITIONAL BENEFIT THAT IS DERIVED FROM
19 THE PURCHASED CREDITED SERVICE USING THE ACTUARIAL ASSUMPTIONS THAT ARE
20 APPROVED BY THE BOARD.

21 C. A member who previously was a member of another public employee
22 retirement system and who receives or is eligible to receive retirement
23 benefits from that system for any period of employment is ineligible to
24 receive retirement benefits from ASRS for the same period.

25 Sec. 2. Section 38-744, Arizona Revised Statutes, is amended to read:

26 38-744. Leave of absence; credit for leave without pay

27 A. If an active member of ASRS or a member who is receiving benefits
28 pursuant to section 38-797.07 is officially granted a leave of absence from
29 employment without pay and returns to employment with the same employer,
30 unless employment could not be resumed because of disability or
31 nonavailability of a position, the member may elect to be credited with
32 service for retirement purposes for not more than one year of the leave by
33 paying to ASRS the amounts as provided in subsection B of this section, if
34 the member has not withdrawn contributions from ASRS and the member's
35 employer has certified that the leave of absence benefits or is in the best
36 interests of the employer.

37 B. A member who elects to be credited with a leave period as provided
38 in subsection A of this section shall pay to ASRS an amount equal to the
39 ~~employer and member contributions for the leave period together with interest~~
40 ~~at the interest rate assumption approved by the board for actuarial~~
41 ~~equivalency, based on the salary received by the member before the leave of~~
42 ~~absence began~~ PRESENT VALUE OF THE ADDITIONAL BENEFIT THAT IS DERIVED FROM
43 THE PURCHASED CREDITED SERVICE USING THE ACTUARIAL ASSUMPTIONS THAT ARE
44 APPROVED BY THE BOARD.

1 C. For the purposes of subsection A of this section, each employer
2 shall adopt rules establishing guidelines for a leave of absence that
3 benefits or is in the best interests of the employer.

4 Sec. 3. Section 38-745, Arizona Revised Statutes, is amended to read:
5 38-745. Credit for military service

6 A. An active member of ASRS or a member who is receiving benefits
7 pursuant to section 38-797.07 may purchase credited service in ASRS for
8 active military service if BOTH OF THE FOLLOWING APPLY:

9 1. The member was honorably separated from the military service.
10 2. The member submits a copy of the member's military service record
11 (DD-214) or its equivalent with the member's application for military service
12 credit.

13 B. The cost to purchase military service credit is an amount equal to
14 the product of the member's current annual compensation times the normal cost
15 rate for ASRS for the fiscal year during which the purchase of credited
16 service is being made times the years or partial years of credited service
17 being purchased PRESENT VALUE OF THE ADDITIONAL BENEFIT THAT IS DERIVED FROM
18 THE PURCHASED CREDITED SERVICE USING THE ACTUARIAL ASSUMPTIONS THAT ARE
19 APPROVED BY THE BOARD.

20 C. An active member of ASRS who is called to active military service
21 may receive credited service for not more than ~~forty-eight~~ SIXTY months of
22 active military service, EXCEPT AS PROVIDED BY THE UNIFORMED SERVICES
23 EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT (38 UNITED STATES CODE SECTION
24 4312(c)). The member's employer shall make employer contributions and member
25 contributions for the member if the member meets the following requirements:

26 1. Was an active member of ASRS on the day before the member began
27 active military service.

28 2. Is a member of the Arizona national guard or is a member of the
29 reserves of any military establishment of the United States.

30 3. Volunteers or is ordered into active military service of the United
31 States as part of a presidential call-up.

32 4. Is honorably separated from active military service and returns to
33 employment for the same employer from which the member left for active
34 military service within ninety days after the date active military service
35 is terminated, is hospitalized as a result of military service and returns
36 to employment for the same employer from which the member left for active
37 military service within ninety days after release from service related
38 hospitalization or dies as a result of the military service.

39 D. Contributions made pursuant to subsection C of this section shall
40 be for the period of time beginning on the date the member began active
41 military service and ending on one of the following dates:

42 1. The date the member is separated from active military service.

43 2. The date the member is released from service related
44 hospitalization or one year after initiation of service related
45 hospitalization, whichever date is earlier.

3. The date the member dies as a result of active military service.

E. Notwithstanding any other law, on payment of the contributions made pursuant to subsection C of this section, the member shall be credited with service for retirement purposes for the period of time of active military service of not more than ~~forty-eight~~ SIXTY months.

F. The employer shall make contributions pursuant to subsection C of this section based on the salary being received by the member immediately before the member volunteered or was ordered into active military service in a lump sum and without penalty when the member returns to employment or on receipt of the member's death certificate. If a member suffers a service related death, the employer shall make the employer and member contributions up to and including the date of the member's death. Death benefits shall be calculated as prescribed by law.

G. In computing the length of total credited service of a member for the purpose of determining retirement benefits or eligibility, the period of military service, as prescribed by this section, shall be included.

H. Notwithstanding any other law, the member is not required to reimburse the member's employer or ASRS for any contribution made pursuant to subsection C of this section.

I. In addition to, but not in duplication of, the provisions of subsection C, contributions, benefits and credited service provided pursuant to this section shall be provided in accordance with section 414(u) of the internal revenue code.

Sec. 4. Section 38-747, Arizona Revised Statutes, is amended to read:

38-747. Purchase of credited service; payment; limitations; definitions

A. A member who purchases credited service pursuant to section 38-738, 38-742, 38-743, 38-744, 38-745 or 38-922 shall either:

1. Make payments directly to ASRS as provided in subsection H of this section.

2. Elect to have the member's employer make payments as provided in subsection B of this section.

B. A member may elect to have the member's employer make payments for all or any portion of the amounts payable for the member's purchase of credited service pursuant to the sections prescribed in subsection A of this section through a salary reduction program in accordance with the following:

1. The amounts paid pursuant to a salary reduction program are in lieu of contributions by the electing member. The electing member's salary or other compensation shall be reduced by the amount paid by the employer pursuant to this subsection. FOR THE PURPOSES OF THIS PARAGRAPH, "OTHER COMPENSATION" INCLUDES A MEMBER'S TERMINATION PAY.

2. The member shall make an election pursuant to this subsection at any time on or after the date the member elects to purchase credited service pursuant to the sections prescribed in subsection A of this section and before the member's termination of employment. The election shall specify

1 the number of payroll periods that deductions will be made from the member's
2 compensation and the dollar amount of deductions for each payroll period
3 during the specified number of payroll periods. IN THE CASE OF AN ELECTION
4 TO UTILIZE ALL OR ANY PART OF THE MEMBER'S TERMINATION PAY TO PURCHASE
5 CREDITED SERVICE, THE MEMBER'S ELECTION SHALL BE MADE AT LEAST THREE FULL
6 CALENDAR MONTHS BEFORE THE DATE OF THE MEMBER'S TERMINATION OF EMPLOYMENT AND
7 ENTITLEMENT TO RECEIVE THE TERMINATION PAY. After an election is made
8 pursuant to this subsection, the election is binding on and irrevocable for
9 the member and the member's employer during the member's remaining period of
10 current employment. After a member makes an irrevocable election pursuant
11 to this subsection, the member does not have the option of choosing to
12 receive the contributed amounts directly. FOR THE PURPOSES OF THIS
13 PARAGRAPH, "TERMINATION PAY" MEANS ANY LUMP SUM THAT IS PAID AT THE MEMBER'S
14 TERMINATION OF EMPLOYMENT FOR ACCRUED VACATION, SICK LEAVE OR OVERTIME PAY.

15 3. A member who makes an irrevocable election pursuant to this
16 subsection to have the member's employer make payments for less than all of
17 the amounts payable for the member's purchase of credited service may
18 irrevocably elect to have the member's employer make payments for all or any
19 portion of the remaining amounts payable for the member's purchase of
20 credited service. A member who makes one or more irrevocable elections
21 pursuant to this subsection may also make other contributions to ASRS
22 pursuant to subsection H of this section to the extent of any remaining
23 amounts payable for which the member has not made an election pursuant to
24 this subsection. An additional election or contribution with respect to a
25 portion of the amounts payable for the member's purchase of credited service
26 does not alter, amend or revoke an irrevocable election already made pursuant
27 to this subsection for any other portion of the amounts payable for the
28 member's purchase of credited service.

29 4. If on termination of the member's current employment all amounts
30 have not been paid to ASRS pursuant to the member's irrevocable election
31 pursuant to this subsection, the member may pay ASRS, within thirty days
32 after the member's termination of employment and subject to other limitations
33 prescribed in this section, all or any portion of the unpaid amounts as
34 provided in subsection H of this section. These payments do not alter, amend
35 or revoke any irrevocable election already made pursuant to this subsection
36 with respect to any amount to be paid by the member's employer while the
37 member is employed by the member's employer.

38 5. Amounts paid by an employer pursuant to this subsection shall be
39 treated as employer contributions for the purpose of determining tax
40 treatment under the internal revenue code. The effective date of employer
41 payments pursuant to this subsection shall not be before the date ASRS
42 receives notification from the United States internal revenue service that
43 pursuant to section 414(h)(2) of the internal revenue code the amounts paid
44 by an employer pursuant to this subsection will not be included in the

1 member's gross income for income tax purposes until those amounts are
2 distributed by refund or retirement benefit payments.

3 6. Unless otherwise provided, member contributions paid by an employer
4 pursuant to this subsection are treated for all other purposes under ASRS in
5 the same manner and to the same extent as member contributions that are not
6 paid by an employer pursuant to this subsection. ASRS shall not grant
7 credited service for contributions made pursuant to this subsection until
8 those contributions are received by ASRS. ASRS may assess interest or
9 administrative charges attributable to any salary reduction election made
10 pursuant to this subsection. The interest or administrative charges shall
11 be added to the amount of contributions that is made to ASRS by the member
12 each payroll period and that is paid by the member's employer. The interest
13 or administrative charges shall not be treated as member contributions for
14 any purposes under this article and a member or a member's beneficiary does
15 not have a right to the return of the interest or administrative charges
16 pursuant to any other provision of this article. Interest assessed pursuant
17 to this subsection shall be at the rate specified by the board pursuant to
18 section 38-711, paragraph 2.

19 C. A member who elects before July 1, 1999 to receive retirement
20 benefits based on section 38-771, subsection C, paragraph 2 or a member who
21 elects to make contributions to ASRS pursuant to section 38-771.01,
22 subsection F, paragraph 4 shall either make the member's additional
23 contributions required pursuant to section 38-771, subsection E or allowed
24 pursuant to section 38-771.01, subsection F, paragraph 4 directly to ASRS as
25 provided in subsection H of this section or shall elect to have the member's
26 employer make payments for those additional contributions as provided in
27 subsection D of this section. A member who elected to be covered or who was
28 deemed to be covered by section 38-771 on or before December 31, 1995 or who
29 elects to make member contributions pursuant to section 38-771.01, subsection
30 F, paragraph 3 is deemed to have made an irrevocable election pursuant to
31 subsection D of this section to make the member's contributions to ASRS that
32 are required by section 38-771, subsection D or allowed by section 38-771.01,
33 subsection F, paragraph 3.

34 D. Any member contributions that are required by section 38-771,
35 subsection D or that are allowed pursuant to section 38-771.01, subsection
36 F, paragraph 3 are deemed to be made by the member to ASRS through a salary
37 reduction program in accordance with the following:

38 1. A member may make member contributions pursuant to section 38-771,
39 subsection E or section 38-771.01, subsection F, paragraph 4 through a salary
40 reduction program elected pursuant to this subsection. If a member makes an
41 irrevocable election pursuant to this subsection before July 1, 1999 to have
42 the member's employer make payments for additional contributions pursuant to
43 section 38-771, subsection E, the election continues in effect from and after
44 June 30, 1999 and shall not be revoked, amended or altered by any election
45 made pursuant to section 38-771.01 or otherwise. The amounts paid pursuant

1 to a salary reduction program are in lieu of contributions by the electing
2 member. The member's salary or other compensation shall be reduced by the
3 amount paid by the employer pursuant to this subsection.

4 2. Before a member's termination of employment, the member may make
5 an election pursuant to this subsection at any time after the date the member
6 elects to receive retirement benefits based on section 38-771, subsection C,
7 paragraph 2 but before July 1, 1999 or at any time after the member elects
8 to make member contributions pursuant to section 38-771.01, subsection F,
9 paragraph 4. The election shall specify the number of payroll periods that
10 deductions will be made from the member's compensation and the dollar amount
11 of deductions for each payroll period during the specified number of payroll
12 periods. After an election is made pursuant to this subsection, the election
13 is binding on and irrevocable for the member and the member's employer during
14 the member's remaining period of current employment.

15 3. After a member makes or is deemed to have made an irrevocable
16 election pursuant to this subsection, the member does not have the option of
17 choosing to receive the contributed amounts directly. A member who makes an
18 irrevocable election pursuant to this subsection to have the member's
19 employer make payments for less than all of the amounts payable for the
20 member's additional contributions allowed by section 38-771.01, subsection
21 F, paragraph 4 may irrevocably elect to have the member's employer make
22 payments for all or any portion of the remaining amounts payable for the
23 member's additional contributions. A member who makes one or more
24 irrevocable elections pursuant to this subsection may also make other
25 contributions to ASRS pursuant to section 38-771.01, subsection F, paragraph
26 4 or pursuant to subsection H of this section to the extent of any remaining
27 amounts payable for which the member has not made an election pursuant to
28 this subsection. An additional election or contribution with respect to a
29 portion of the amounts payable for the member's additional contributions
30 pursuant to section 38-771.01, subsection F, paragraph 4 does not alter,
31 amend or revoke an irrevocable election already made pursuant to this
32 subsection for any other portion of the amounts payable for the member's
33 additional contributions allowed by section 38-771.01, subsection F,
34 paragraph 4.

35 4. If on termination of the member's current employment all amounts
36 have not been paid to ASRS pursuant to the member's irrevocable election
37 pursuant to this subsection, the member may pay ASRS, within thirty days
38 after the member's termination of employment and subject to other limitations
39 prescribed in this section, all or any portion of the unpaid amounts as
40 provided in subsection H of this section. These payments do not alter, amend
41 or revoke any irrevocable election already made pursuant to this subsection
42 with respect to any amount to be paid by the member's employer while the
43 member is employed by the member's employer.

44 5. Amounts paid by an employer pursuant to this subsection shall be
45 treated as employer contributions for the purpose of determining tax

1 treatment under the internal revenue code. The effective date of employer
2 payments pursuant to this subsection shall not be before the date ASRS
3 receives notification from the United States internal revenue service that
4 pursuant to section 414(h)(2) of the internal revenue code the amounts paid
5 by an employer pursuant to this subsection will not be included in the
6 member's gross income for income tax purposes until those amounts are
7 distributed by refund or retirement benefit payments.

8 6. Unless otherwise provided, member contributions paid by an employer
9 pursuant to this subsection are treated for all other purposes under ASRS in
10 the same manner and to the same extent as member contributions that are not
11 paid by an employer pursuant to this subsection.

12 E. The following limits apply to contributions to ASRS:

13 1. Except to the extent paragraphs 2 and 3 of this subsection apply
14 to certain contributions made by a member to ASRS and to the extent permitted
15 under section 414(v) of the internal revenue code, if applicable, in any one
16 limitation year, the annual additions contributed or allocated to ASRS for
17 or on behalf of a member shall not exceed the lesser of either:

18 (a) Forty thousand dollars or a larger amount that is prescribed by
19 the board and that is due to any cost of living adjustment announced by the
20 United States secretary of the treasury pursuant to section 415(d) of the
21 internal revenue code. The board shall increase the amount prescribed by
22 this subdivision as of the effective date of the increase announced by the
23 United States secretary of the treasury.

24 (b) One hundred per cent of the member's compensation for the
25 limitation year. The compensation limit prescribed in this subdivision does
26 not apply to any contribution to ASRS for medical benefits after a member's
27 separation from service, within the meaning prescribed in section 401(h) or
28 419A(f)(2) of the internal revenue code, that is otherwise treated as an
29 annual addition.

30 2. Unless paragraph 4 of this subsection applies, for plan years
31 beginning on or after July 1, 1998, in any one limitation year, the annual
32 additions credited to ASRS for or on behalf of a member who makes
33 contributions to ASRS to purchase credited service pursuant to section
34 38-743, 38-744, 38-745 or 38-922 and with respect to which an irrevocable
35 election has not been made pursuant to subsection B of this section shall not
36 exceed the greater of either:

37 (a) The requirements of section 38-769. For the purposes of applying
38 the limits prescribed in section 38-769 under this subdivision, the accrued
39 benefit derived from the contributions shall be treated as an annual benefit
40 and the reduced limit for certain early retirement in section 38-769,
41 subsection C, paragraph 2 does not apply.

42 (b) Except as provided in paragraph 3 of this subsection, the
43 requirements of paragraph 1 of this subsection. The contributions shall be
44 treated as annual additions and any of the member's other annual additions
45 for the limitation year shall be taken into account. For the purposes of

1 applying the requirements of paragraph 1 of this subsection under this
2 subdivision, the percentage of compensation limit in paragraph 1, subdivision
3 (b) of this paragraph does not apply.

4 3. For plan years beginning on or after July 1, 1998, the requirements
5 of paragraph 1 of this subsection shall not be applied to reduce the amount
6 of credited service that may be purchased by an eligible member pursuant to
7 section 38-743, 38-744, 38-745 or 38-922 to an amount that is less than the
8 amount of credited service allowed to be purchased pursuant to those sections
9 on August 5, 1997 without the application of any of the limits prescribed in
10 this section or section 415 of the internal revenue code. For the purposes
11 of this paragraph, "eligible member" means a person who first becomes a
12 member of ASRS before July 1, 1999.

13 4. Member contributions to ASRS to purchase credited service pursuant
14 to section 38-743, 38-744 or 38-922 shall not be made by a member if
15 recognition of that service would cause a member to receive a retirement
16 benefit for the same service from ASRS and one or more other retirement
17 plans. This paragraph does not apply to either of the following:

18 (a) Contributions made by an eligible member as defined in paragraph
19 3 of this subsection, except that any service purchase by an eligible member
20 is subject to any other limitations, including limitations on duplicative
21 service purchase, otherwise provided in this article.

22 (b) Any member contributions with respect to which an irrevocable
23 election has been made by a member pursuant to subsection B of this section,
24 except that the service purchase is subject to any other limitations,
25 including limitations on duplicative service purchase, otherwise provided in
26 this article.

27 F. If a member's contributions are subject to the limitations of
28 subsection E of this section, the contributions shall be treated as being
29 made to a separate defined contribution plan. If the member's contributions
30 exceed the limits prescribed in subsection E of this section when taking into
31 account other member and employer contributions to ASRS on behalf of the
32 member for the limitation year, the amount to be paid by the member shall be
33 reduced to not exceed the limits prescribed in subsection E of this section
34 and the remaining amount shall be carried forward to the next limitation
35 year, unless the limits are exceeded in the next limitation year. If the
36 limits are exceeded in the next limitation year, the procedure prescribed by
37 this subsection shall be repeated until all payments have been made.

38 G. If, after the application of subsection F of this section, the
39 annual additions on behalf of a member exceed the limitations prescribed in
40 subsection E of this section, ASRS shall dispose of excess amounts by either
41 of the following:

42 1. Returning to the member any contributions that are made by the
43 member and that are nondeductible under the internal revenue code.

44 2. Holding the amounts in a suspense account established pursuant to
45 subsection L of this section and allocating the amounts as either member or

1 employer contributions for the benefit of the member in the next limitation
2 year and before any further member or employer contributions are made that
3 would constitute annual additions made to a defined contribution plan
4 pursuant to section 415 of the internal revenue code. ASRS shall allocate
5 contributions as prescribed in this section, and the amount allocated shall
6 reduce the amount of the member or employer contributions for the limitation
7 year in which the allocation is made.

8 H. To the extent that a payment under this subsection does not alter,
9 amend or revoke any one or more currently effective irrevocable elections
10 made by the member pursuant to subsection B or D of this section, the board
11 may accept contributions made pursuant to section 38-771 or member
12 contributions for the payment for credited service purchases pursuant to
13 section 38-738, 38-742, 38-743, 38-744, 38-745 or 38-922 or contributions
14 made pursuant to section 38-771.01, subsection F, paragraph 4, in whole or
15 in part, by any one or a combination of the following methods:

16 1. In lump sum payments.

17 2. Subject to the limitations prescribed in sections 401(a)(31) and
18 402(c) of the internal revenue code and subsection J of this section,
19 accepting a direct rollover of or a contribution by a member of an eligible
20 rollover distribution from one or more:

21 (a) Retirement programs that are qualified under section 401(a) or
22 403(a) of the internal revenue code.

23 (b) Annuity contracts described in section 403(b) of the internal
24 revenue code.

25 (c) Eligible deferred compensation plans described in section 457(b)
26 of the internal revenue code that are maintained by a state, a political
27 subdivision of a state or any agency or instrumentality of a state or a
28 political subdivision of a state.

29 3. Subject to the limitations prescribed in section 408(d)(3)(A)(ii)
30 of the internal revenue code, accepting from a member a rollover contribution
31 of that portion of a distribution from an individual retirement account or
32 individual retirement annuity described in section 408(a) or 408(b) of the
33 internal revenue code that is eligible to be rolled over and would otherwise
34 be includable as gross income.

35 4. Providing by rule that the contributions may be made in installment
36 payments over a period of time.

37 I. To the extent that a payment under this subsection does not alter,
38 amend or revoke any one or more currently effective irrevocable elections
39 made by a member pursuant to subsection B or D of this section, the board may
40 accept a direct trustee-to-trustee transfer from RETIREMENT PROGRAMS THAT ARE
41 QUALIFIED UNDER SECTION 401(a) OR 403(a) OF THE INTERNAL REVENUE CODE, an
42 annuity contract described in section 403(b) of the internal revenue code or
43 an eligible deferred compensation plan described in section 457(b) of the
44 internal revenue code for the payment for credited service purchases
45 pursuant to section 38-742, 38-743, 38-744, 38-745 or 38-922. IF A DIRECT

1 TRUSTEE-TO-TRUSTEE TRANSFER IS FROM A RETIREMENT PROGRAM QUALIFIED UNDER
2 SECTION 401(a) OF THE INTERNAL REVENUE CODE, WHICH INCLUDES A CASH OR
3 DEFERRED ARRANGEMENT DESCRIBED IN SECTION 401(k) OF THE INTERNAL REVENUE
4 CODE, THE MEMBER ON WHOSE BEHALF THE TRANSFER WAS MADE IS NOT ELIGIBLE TO
5 RETIRE UNDER SECTION 38-764, SUBSECTION J, BEFORE THE DATE THE MEMBER ATTAINS
6 AGE FIFTY AND ONE-HALF.

7 J. ASRS shall separately account for all amounts rolled over or
8 directly transferred to ASRS.

9 K. ASRS shall not grant credited service under section 38-738, 38-742,
10 38-743, 38-744 or 38-922 for contributions made pursuant to subsection H of
11 this section until the contributions are received by ASRS. ASRS may assess
12 interest or administrative charges attributable to any installment payment
13 made pursuant to subsection H, paragraph 4 of this section to purchase
14 credited service pursuant to section 38-738, 38-742, 38-743, 38-744 or
15 38-922. The interest or administrative charges shall be added to the amount
16 of contributions made to ASRS by the member. The interest or administrative
17 charges shall not be treated as member contributions for any purposes under
18 this article, and a member or a member's beneficiary does not have a right
19 to the return of the interest or administrative charges pursuant to any other
20 provision of this article. Interest assessed pursuant to this subsection
21 shall be at the rate specified by the board pursuant to section 38-711,
22 paragraph 2.

23 L. ASRS shall establish a suspense account that conforms with 26 Code
24 of Federal Regulations section 1.415-6(b)(6) regarding excess annual
25 additions.

26 M. If the member retires before all payments are made pursuant to this
27 section, ASRS shall calculate the member's benefits based only on the
28 payments actually made.

29 N. On satisfaction of the requirements of this section, ASRS shall
30 adjust the member's credited service history and add any additional service
31 credits acquired.

32 O. Annual additions on behalf of a member in any limitation year shall
33 be the sum of:

34 1. The amount of the member contributions made to ASRS to purchase
35 credited service pursuant to section 38-738, 38-743, 38-744, 38-745 or 38-922
36 and with respect to which an irrevocable election made pursuant to subsection
37 B of this section is not in effect.

38 2. The amount of member and employer contributions made to ASRS on
39 behalf of a member who elected or was deemed to have elected to receive
40 retirement benefits pursuant to section 38-771 or who is entitled to benefits
41 pursuant to section 38-771.01, except that, other than as provided in
42 subsection P of this section, corrective contributions shall be considered
43 annual additions for the limitation years to which the contributions relate
44 and interest and gains shall not be considered as annual additions for the
45 purpose of any limitation prescribed in this article or in section 415 of the

1 internal revenue code. If the corrective contributions exceed the limit on
2 annual additions for a limitation year prior to the limitation year in which
3 the corrective contributions are contributed by the employer to ASRS, the
4 retirement benefit attributable to the excess corrective contributions shall
5 be treated as an excess benefit and shall be payable to the member as any
6 other excess benefit is payable pursuant to section 38-774, and the employer
7 shall pay the excess corrective contributions to the separate unfunded
8 governmental excess benefit arrangement administered by the board pursuant
9 to section 38-774.

10 3. Any member or employer contributions made to ASRS or any other plan
11 that are treated as being made to a defined contribution plan maintained by
12 an employer of the member.

13 4. Any forfeitures, including any income attributable to forfeitures,
14 allocated for or on behalf of a member of ASRS or any other plan that are
15 treated as being allocated under a defined contribution plan maintained by
16 an employer of the member.

17 P. To the extent any portion of the subject benefits, if treated as
18 subject to the benefit limitations of section 415(b) of the internal revenue
19 code, exceed the applicable limitation on benefits pursuant to section 38-769
20 for the form of distribution, a percentage of corrective contributions and
21 interest and gains shall be treated as annual additions for the limitation
22 year in which contributed by the employer to ASRS. This percentage of
23 corrective contributions and interest and gains shall be equal to the
24 percentage determined by dividing the subject benefits that exceed the
25 limitation on benefits pursuant to section 38-769 by the subject benefits.
26 If the corrective contributions and interest and gains that are treated as
27 annual additions for the limitation year in which the corrective
28 contributions and interest and gains are contributed by the employer to ASRS
29 exceed the limit on annual additions for the limitation year, the retirement
30 benefit attributable to the excess shall be treated as an excess benefit and
31 shall be payable to the member as any other excess benefit is payable
32 pursuant to section 38-774, and the employer shall pay the excess to the
33 separate unfunded governmental excess benefit arrangement administered by the
34 board pursuant to section 38-774.

35 Q. Subsection O of this section shall be construed and interpreted in
36 accordance with 26 Code of Federal Regulations section 1.415-6 to the extent
37 that section is applicable.

38 R. For the purposes of this section:

39 1. "Compensation" has the same meaning prescribed in section 38-769.
40 2. "Corrective contributions" means any contributions that are paid
41 by an employer pursuant to section 38-771.01, subsection C, paragraph 3 and
42 that are attributable to employer contributions that should have been made
43 for prior limitation years.

44 3. "Defined contribution plan" has the same meaning prescribed in
45 section 38-769.

1 4. "Interest and gains" means employer contributions to ASRS pursuant
2 to section 38-771.01, subsection C, paragraphs 3, 5 and 6 that are
3 attributable to earnings and supplemental credits that would have been earned
4 or added to a member's annuity payment.

5 5. "Limitation year" has the same meaning prescribed in section
6 38-769.

7 6. "Subject benefits" means the retirement benefit received by a
8 member pursuant to section 38-771.01 minus the sum of the portion of such
9 retirement benefit attributable to contributions that were made by or on
10 behalf of the member to the defined contribution program administered by ASRS
11 for periods before July 1, 1981 and contributions that were made by the
12 member after June 30, 1981 and that were not picked up as provided in section
13 414(h)(2) of the internal revenue code.

14 Sec. 5. Section 38-748, Arizona Revised Statutes, is amended to read:

15 38-748. Employers; termination option

16 A. To encourage active members to continue to work beyond normal
17 retirement age, an employer may elect to offer to eligible employees who are
18 active members of ASRS a termination option as provided in subsection B of
19 this section.

20 B. An employer may enter into a written agreement with an eligible
21 active member who has attained at least a normal retirement age and who has
22 at least five years of credited service that provides that if the member
23 agrees to and performs work for at least six but not more than thirty-six
24 months after the effective date of the agreement the member is eligible to
25 receive:

26 1. At least six but not more than thirty-six months of credited
27 service in ASRS for the work performed under the agreement if the member
28 purchases an equal amount of credited service pursuant to paragraph 2. The
29 agreement shall provide that the employer and the member shall not make
30 retirement contributions to ASRS for the period of credited service but shall
31 make contributions for the long-term disability program pursuant to section
32 38-797.05.

33 2. Eligibility to purchase credited service equal to the period that
34 the member has agreed to work. This purchase shall be made without regard
35 to previous public service, but the cost of the credited service shall be
36 ~~determined as provided in section 38-743, subsection B using the AN AMOUNT~~
37 ~~EQUAL TO THE PRODUCT OF THE MEMBER'S current annual compensation at the time~~
38 ~~of entering into the agreement TIMES THE GREATER OF THE CONTRIBUTION RATE OR~~
39 ~~THE NORMAL COST RATE FOR ASRS FOR THE FISCAL YEAR DURING WHICH THE PURCHASE~~
40 ~~OF CREDITED SERVICE IS BEING MADE TIMES THE YEARS OR PARTIAL YEARS OF~~
41 ~~CREDITED SERVICE BEING PURCHASED.~~ A member may purchase no more than an
42 aggregate of five years of credited service pursuant to this paragraph under
43 all agreements the member may have with any one or more employers.

44 C. The member and employer shall make contributions as agreed between
45 the member and employer to be paid during the term of the agreement. These

1 contributions shall be paid into a supplemental defined contribution plan
2 established pursuant to section 38-952 for the purpose of purchasing the
3 additional credited service authorized by subsection B, paragraph 2 of this
4 section.

5 D. The written agreement entered into pursuant to subsection B of this
6 section shall include conditions that constitute a breach of the agreement
7 between the employer and the member.

8 E. A member who does not complete the terms of the agreement forfeits
9 any credited service provided under the agreement, except that any employer
10 or member contributions to a supplemental defined contribution plan are the
11 property of the member or the member's estate. If a member is unable to
12 complete the terms of the agreement due to a termination of employment
13 because the member is considered totally disabled pursuant to section
14 38-797.07 or because of death, the member is considered to have completed the
15 agreement for the period through the date of the member's termination of
16 employment. Notwithstanding the six month minimum service requirement of
17 subsection B of this section, the member or the member's beneficiary is
18 eligible to purchase and receive credited service, as provided by subsection
19 B of this section, for the period of the agreement that was completed.

20 F. An employer who fails to complete the terms of the agreement shall
21 make all contributions required by the agreement to the supplemental defined
22 contribution plan.

23 G. A member who enters into an agreement under this section is not
24 eligible to purchase other credited service for other public service as
25 provided in section 38-742, 38-743, 38-744 or 38-745.

26 H. If a member transfers employment between state agencies or from one
27 participating employer to another participating employer, the member and the
28 member's successor agency or employer may complete the terms of the agreement
29 if the successor agency or employer agrees to assume all remaining
30 obligations of the prior agency or employer under the terms of the agreement
31 between the member and the prior agency or employer. A member may have only
32 one agreement in effect at any one time with a single agency or employer.

33 Sec. 6. Section 38-762, Arizona Revised Statutes, is amended to read:

34 38-762. Survivor benefits before retirement; definition

35 A. On the termination of employment by death of any active or inactive
36 member before retirement, the designated beneficiary of the member shall be
37 paid a survivor benefit equal to the sum of both of the following:

38 1. Two times the member's contribution AND INTEREST to the defined
39 benefit plan established by this article FOR CREDITED SERVICE THAT A MEMBER
40 EARNED BY WORKING FOR AN EMPLOYER, PLUS ALL CONTRIBUTIONS AND INTEREST MADE
41 FOR THE PURCHASE OF MILITARY SERVICE, LEAVE WITHOUT PAY OR OTHER PUBLIC
42 SERVICE CREDIT.

43 2. The amount of the member's employee account and the member's
44 employer account together with supplemental credits, if any, transferred from

1 the defined contribution program administered by ASRS to the defined benefit
2 program established by this article.

3 B. Subsection A, paragraphs 1 and 2 shall be accumulated at compound
4 interest at the valuation rate established by the board through the day of
5 the payment of the benefit.

6 C. In lieu of a single payment, a designated beneficiary who is
7 eligible for a survivor benefit pursuant to subsection A of more than five
8 thousand dollars may elect to receive the actuarial equivalent of the
9 survivor benefit pursuant to one of the following options:

10 1. A monthly income for five, ten or fifteen years certain and for
11 life thereafter.

12 2. Another form of optional benefits approved by the board.

13 D. On the death of an active or inactive member who has reached an
14 early retirement date applicable to the member or who has a minimum of
15 fifteen years of credited service and whose designated beneficiary is a
16 spouse, child under the age of twenty-one or handicapped child age twenty-one
17 or older, including a legally adopted child or a stepchild, ASRS shall pay
18 the designated beneficiary a survivor benefit equal to the present value, on
19 the date following the date of the member's death, of the life annuity that
20 would have been payable to the designated beneficiary if the member had
21 retired on the date of the member's death and elected to receive an annuity
22 in the form of a joint and survivor annuity providing the same amount of
23 annuity to the surviving beneficiary as the reduced amount that would have
24 been payable during the lifetime of the member. If there is more than one
25 designated beneficiary under this subsection, ASRS shall determine the amount
26 of the annuity and its present value as if the oldest of the beneficiaries
27 was the sole beneficiary. Payment under this subsection shall be in lieu of,
28 but not less than, any payment under subsection A. Payment under this
29 subsection, at the election of the designated beneficiary, may be made in a
30 single sum or may be made in accordance with subsection C. A beneficiary may
31 not elect this option unless a benefit of twenty-five dollars or more per
32 month is payable to the designated beneficiary or the designated
33 beneficiary's estate.

34 E. If a member dies before distribution of the member's benefits
35 commences, the member's entire benefits shall be distributed no later than
36 five years after the member's death, except to the extent that, if any
37 portion of the member's interest is payable to a designated beneficiary,
38 distributions may be made in substantially equal installments over the life
39 expectancy of the designated beneficiary or over a period not extending
40 beyond the life expectancy of the beneficiary commencing no later than one
41 year after the member's death.

42 F. If a deceased member did not designate a beneficiary or the
43 beneficiary named by a member predeceases the member, ASRS shall pay the
44 member's survivor benefit to the following persons in the following order of
45 priority:

- 1 1. The member's surviving spouse.
- 2 2. The member's surviving children, including adopted children, in
- 3 equal shares.
- 4 3. The member's surviving parents in equal shares.
- 5 4. The member's estate.
- 6 G. Any payment pursuant to this section is payment for the account of
- 7 the member or the member's beneficiary and all persons entitled to payment
- 8 and, to the extent of the payment, is a full and complete discharge of all
- 9 liability of the board or ASRS, or both, under or in connection with ASRS.
- 10 H. For purposes of this section, "designated beneficiary" means any
- 11 individual designated by the member as the member's beneficiary.

APPROVED BY THE GOVERNOR MAY 20, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 20, 2004.



Passed the House February 3, 2004

Passed the Senate April 6, 2004

by the following vote: 57 Ayes,

by the following vote: 29 Ayes,

0 Nays, 3 Not Voting

Jake Flake
Speaker of the House

Norman L. Moore
Chief Clerk of the House

0 Nays, 1 Not Voting

Klu Plunett
President of the Senate

Charmine Ballington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20____,

at _____ o'clock _____ M.

Governor of Arizona

H.B. 2029

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

May 17, 2004,

by the following vote: 50 Ayes,

0 Nays, 10 Not Voting

Joe Flake
Speaker of the House
Norman L. Moore
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

17th day of May, 2004,

at 1:46 o'clock P. M.

Jennifer Ybarra
Secretary to the Governor

Approved this 20 day of

May, 2004,

at 2:25 o'clock 1: M.

Jon Kyl
Governor of Arizona

H.B. 2029

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 20 day of May, 2004,

at 4:21 o'clock P. M.

Janice L. Brewer
Secretary of State